

## Comments

**Docket ID** HUD-2008-0028

**Docket Title** FR-5180-P-01  
Real Estate Settlement Procedures Act (RESPA): Proposed Rule To Simplify and Improve the Process of Obtaining Mortgages and Reduce Consumer Settlement Costs

**Document ID** HUD-2008-0028-0001

**Document Title** FR-5180-P-01: Real Estate Settlement Procedures Act (RESPA): Proposed Rule To Simplify and Improve the Process of Obtaining Mortgages and Reduce Consumer Settlement Costs

One of the largest misconceptions in the closing process is the cost of recording. There are often accusations that Closing Agents intentionally overcharge for recording fees. This is not usually the case.

It is nearly impossible to correctly ascertain the recording costs prior to closing. While the cost per page and per document is known, the exact number of pages and documents is rarely known in advance.

Many times an additional document(s) are required which are unknown at the time of application and preparation of the GFE. The following are examples of additional documents or pages that are not previously known:

1. A release of a prior mortgage or judgment that needs to be filed which has turned up on the title report.
2. The legal description is too long to fit on the face of the documents itself and an addendum must be included with the document for this legal description.
3. An additional document that must be recorded to ensure good title, such as a Death Certificate, Quit Claim Deed, Marital Waiver or Affidavit..
4. There are multiple signers and an additional page is required for all the signatures.

These are but a few of the instances where the actual recording costs can change and would not always be known prior to preparation of the HUD-1, let alone when the application is taken and a GFE is given to the consumer.

When you say on the GFE that the Government Recording Fees cannot change, then you are misleading the consumer. It should either disclose the price per page and document or explain that while the cost per page/documents is fixed, the total amount is subject to change based on the numbers of pages and documents. Otherwise, you are going to really confuse the borrower or seller who will think they are being over-charged for recording fees when this is not true.

If you are comparing the GFE with the HUD-1 the Recording Fees will rarely be exact and this will cause a lot of confusion. A better way to show this on the GFE would be to show "estimated" number of pages/documents and cost for each. Then the consumer could count them at closing to ascertain that they are not being over-charged. Many times the number and pages of the documents are not known by the Closing Agent until the documents arrive from the lender. However, the Lender requires the HUD-1 be prepared prior to release of these documents.

This part of the Proposed Changes is **not** going to simplify and improve the process. Instead it is going to cause confusion to the consumer. Closing agents will see this as a yet another hidden liability, and stop the closing, to the detriment of the consumer, if additional required costs need to be incurred, and loan originations will be held responsible for items they could not possibly have known about at the time of preparation of the GFE.

The Recording Fee section of the proposed GFE should be changed to stop confusion and benefit everyone, most especially the consumer.